

Attorney Docket No. 66635

unpatentable over Bauer, U.S. Patent No. 4,330,069, in view of Stephen et al., U.S. Patent No. 4,966,125.

Claim 20 recites a cooking vessel comprising a pan and a removable lid assembly. The lid assembly comprises a lid having a thermometer including a probe extending downward through an aperture in the lid. The probe has a bottom end disposed above the rim of the lid, and contains a temperature sensing device disposed beneath the aperture and within the cooking vessel. The thermometer is rapidly responsive to temperature changes within the cooking vessel, and is removable from the knob body by lifting the thermometer therefrom to facilitate cleaning.

The examiner states that the thermometer of Bauer lacks any impediments to its being lifted out of the handle. However, Bauer discloses a pressure cooker, and in the absence of any impediments, the pressure within the vessel would displace the thermometer from its illustrated position. The question of whether the thermometer is removable is not addressed at all in the Bauer reference. Thus, Bauer cannot fairly be regarded as disclosing or suggesting a removable thermometer.

The examiner cites Stephen et al. as teaching a cooking device having a removable thermometer located in the handle of a lid. However, the cooking device of Stephen et al. is a Weber grill. Claim 20 has been amended to better describe the invention as relating to a cooking vessel suitable for use in stove top cooking applications. One skilled in the art would not look to a Weber grill for guidance in improving a pan and lid for stove top cooking, and accordingly Stephen et al. cannot fairly be regarded as teaching or suggesting inclusion of a removable thermometer in the invention of claim 20.

Attorney Docket No. 66635

Objective evidence of nonobviousness is set forth in the attached declaration of Richard R. Cappadona. Mr. Cappadona's declaration establishes, among other things, commercial success of the invention, which strongly supports a conclusion of non-obviousness, and further supports the conclusion that the Bauer reference is merely a "paper patent", and does not describe an operative device or otherwise fairly suggest incorporation of a thermometer in cookware as described in claim 20. An executed copy of the declaration will follow shortly.

Claim 22 recited a movable member supporting the thermometer. The examiner indicated that the lid of Bauer acts as a removable member. To better describe the invention, claim 22 has been amended to recite a holder that is removable from the lid for supporting the thermometer. Claim 22 also recites a retaining member on the lid that selectively retains the thermometer thereon, which is not disclosed or suggested by Bauer.

For the reasons set forth above, it is submitted that claims 20 - 22 are allowable.

New claim 23, which pertains to a method of waterless cooking, is also submitted to be allowable.

Reconsideration and allowance of the application are respectfully requested.

The Commissioner is hereby authorized to charge any additional fees which may be required in this application to Deposit Account No. 06-1135.

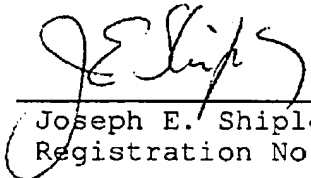
Attorney Docket No. 66635

A version of the claims with markings to show changes made is attached.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

By:



Joseph E. Shipley
Registration No. 31,137

Date: January 3, 2002.

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Attorney Docket No. 66635

VERSION WITH MARKINGS TO SHOW CHANGES MADE

2. (Amended three times) A cooking vessel comprising a pan [,] and a removable lid assembly comprising a lid having a generally convex upper surface and a generally concave lower surface and a peripheral rim, said lid assembly further comprising a knob assembly on said upper surface and defining at least one aperture through said knob assembly and said lid, said lid assembly further comprising a thermometer including a probe extending downward through said aperture and a temperature display, wherein said probe has a bottom end disposed above the rim, said probe containing a temperature sensing device disposed beneath said aperture and within said cooking vessel, wherein said knob assembly includes a whistle body that provides an audible signal in response to flow of vapor therethrough, and a movable member having a dual function notch formed therein that operates selectively both as a release to selectively permit removal of the movable member for cleaning, and as a slot for vapor discharge to selectively enable the whistle body.

20. (Once amended) Waterless cookware comprising a [A] cooking vessel suitable for use in stove top waterless cooking applications comprising a pan[,] and a removable lid assembly comprising a lid having an upper surface and a lower surface and a peripheral rim, said lid assembly further comprising a knob body on said upper surface and defining at least one aperture through said knob body and said lid, said lid assembly further comprising a thermometer including a probe extending downward through said aperture and a temperature display, wherein said probe has a bottom end disposed above the rim, said probe containing a temperature sensing device disposed beneath said

Attorney Docket No. 66635

aperture and within said cooking vessel, said thermometer being rapidly responsive to temperature changes within the cooking vessel, and being removable from said knob body by lifting the thermometer therefrom to facilitate cleaning.

22. (Once amended) A cooking vessel in accordance with claim 20 wherein said lid assembly further comprises a holder that is removable from the lid for [movable member] supporting said thermometer and a retaining member on the lid that selectively retains the thermometer thereon.

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PATENT

Attorney Docket No. 66635

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Cappadona et al

Appln No.: 09/425,436

Filed: October 22, 1999

For: Lid for Cooking Pan


Group Art
Unit: 1761

Examiner: Drew E. Becker

CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington D.C. 20231, on this date.

1/3/02
Date


Joseph E. Shipley

Registration No. 31,137
Attorney for Applicant(s)

PETITION FOR EXTENSION OF TIME

Applicant(s) hereby petition(s) under 37 CFR §1.136(a) for an extension of time for reply in the above-identified application for the period required to make the accompanying reply timely, or, if there be no accompanying reply, for the period for which the fee is indicated or the period necessary to prevent abandonment of the above-identified application if longer than the period for which the fee is indicated.

Extension fee for reply within first month:

- ☐ By a small entity (§1.9(f)) \$ 55.00
☐ By other than a small entity \$ 110.00

Extension fee for reply within second month:

- ☐ By a small entity (§1.9(f)) \$ 200.00
☐ By other than a small entity \$ 400.00

Extension fee for reply within third month:

- ☐ By a small entity (§1.9(f)) \$ 460.00
☒ By other than a small entity \$ 920.00

Extension fee for reply within fourth month:

- ☐ By a small entity (§1.9(f)) \$ 720.00
☐ By other than a small entity \$1,440.00

Extension fee for reply within fifth month:

- ☐ By a small entity (§1.9(f)) \$ 980.00
☐ By other than a small entity \$1,960.00

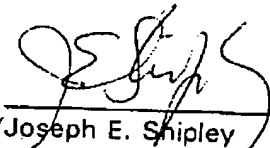
- ☐ A check in the amount of \$_____ to cover the extension fee is enclosed.

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Jorney Docket No. 66635

- ☒ Charge \$ 920.00 to Deposit Account No. 06-1135.
- ☒ The Commissioner is hereby authorized to charge any additional fees which may be required in this application under 37 C.F.R. §§1.16-1.17 during its entire pendency, or credit any overpayment, to Deposit Account No. 06-1135. Should no proper payment be enclosed herewith, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1135. This sheet is filed in triplicate.

January 3, 2002
Date



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: CAPPADONA et al.

Application No.: 09/425,436

Filed: October 22, 1999

Title: LID FOR COOKING
PANGroup Art
Unit:

1761

Examiner: D. Becker

CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington D.C. 20231, on this date.

01/03/02
Date

Joseph E. Shipley
Joseph E. Shipley
Registration No. 31,137
Attorney for Applicant(s)

DECLARATION OF RICHARD R. CAPPADONA

I, RICHARD R. CAPPADONA, declare under penalty of perjury:

1. I am the president of Carico International Inc., the assignee of the above-captioned application, and am one of the inventors of the patent application. I have 39 years of experience in the cookware industry.

2. The invention claimed in the patent application has been a commercial success. Carico markets cookware embodying the invention under the "Ultra Tech" trademark. This cookware includes the Carico Ultra Tech knob, which has a thermometer that measures the temperature within the pan instantaneously. Our Ultra Tech cookware includes all of the features of at least claims 20-22 of the patent application, and is particularly

useful for waterless cooking as described in claim 23. Carico actively promotes waterless cooking using the Ultra Tech cookware.

3. In the first year that Carico launched its Ultra Tech Cookware, 2000, we shipped product having a retail value of about \$15 million. For 2001, the value was about \$ 25 million. For 2002, we anticipate shipping about \$32 million. I believe that the increases in sales volume are attributable in large part to the invention, not to increased advertising or other factors.

4. I understand that claims 20-22 have been rejected in view of prior art patents disclosing thermometers in a pressure cooker and in a Weber grill. In my opinion, neither of these patents can fairly be interpreted as suggesting our invention. Pressure cookers function at high temperatures and pressures, i.e., above the boiling point of water, and above ambient pressure. The principles involved in cooking with a pressure cooker are opposite to those of waterless cooking. A pressure cooker requires a locking arrangement to hold and seal the lid in place and maintain internal pressure. A pressure cooker also requires a pressure relief valve that permits increased pressure to be maintained up to a limit. This enables cooking at high temperatures and pressures to take place, while preventing dangerously high pressure from building up in the interior of the cooker. In contrast, waterless cooking takes place at reduced temperatures and at reduced pressures, i.e. under subatmospheric

or partial vacuum conditions, and waterless cookware does not include locking arrangements or pressure relief valves. Cooking in a Weber grill is also much different from stove top cooking using cookware or cooking methods embodying the invention. I believe that a person of ordinary skill in the art would not look to patents on outdoor grills or on pressure cookers for suggestions on modifications to waterless cookware.

5. The invention was not obvious to me at the time it was made, and in my opinion would not have been obvious to a person of ordinary skill in the art of designing and manufacturing cookware. I spent over two years on research and development of this product. I have visited housewares shows in Italy, Germany, Asia and the United States, and I have met with knob manufacturers in various countries as well. To the best of my knowledge, our invention represents the first waterless cookware that is capable of measuring temperature above food items instantaneously. To the best of my recollection, I have not seen any stove top cookware having a thermometer penetrating the lid of a pan as described in claim 20. In particular, to the best of my recollection, I have not seen a pressure cooker having a thermometer penetrating the lid as in the Bauer reference, and I do not believe that the pressure cooker shown in the Bauer reference is a commercial product.

6. To the best of my knowledge, the desirability of

instantaneously measuring temperature above food items in waterless cooking has not been recognized in the past. I believe that the problem addressed by our invention was not recognized in the prior art, which makes it very unlikely that the invention would have been obvious.

7. To the best of my knowledge, there is no other waterless cookware on the market that enables instantaneous determination of temperature. Moreover, to the best of my knowledge, the desirability of providing instantaneous temperature measurement was not recognized in the prior art, and the problem of how to accomplish this was neither recognized nor addressed.

8. Our Ultra Tech cookware is the talk of the industry. I have had inquiries from companies in Germany, Turkey and Japan about manufacturing products similar to our Ultra Tech cookware. We have declined to consent to others manufacturing such products. However, based on my experience in the industry, it is very likely that other companies will copy our invention without permission, unless we have effective patent protection.

9. I declare that all statements of fact made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the

United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: January __, 2002

Richard R. Cappadona